

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUSHAN FARNOLD MALONE,

Defendant.

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4:09CR3084

MEMORANDUM
AND ORDER

The probation officer has prepared and submitted to me a “2011 Retroactive Crack Cocaine Sentencing Worksheet.” It shows that I have the discretion to reduce the defendant’s 121 month prison sentence by one month; that is, I have the power to impose a reduced sentence of 120 months in prison. Recognizing that the defendant received a role enhancement in this case, recognizing that the defendant’s criminal history includes charges of aggravated assault, kidnaping, possession of a firearm and possession of a controlled substance, recognizing that the defendant agreed to cooperate with the government and then acted in a manner contrary to his agreement (e.g., filing no. 42 and filing no. 43), and further recognizing that seven disciplinary reports have been filed against the defendant while he has been in prison on this conviction, I decline to reduce the defendant’s sentence even though I have the power to do so.

IT IS ORDERED that the undersigned will not reduce the defendant’s sentence because of the retroactive changes to the “crack” Guidelines. A copy of this Memorandum and Order shall be provided to counsel of record, to USPO Jim Harms, to Mr. David Stickman, Federal Public Defender, and to the defendant at his last known address. Mr. Harms shall file the worksheet.

DATED this 4th day of April, 2012.

BY THE COURT:

Richard G. Kopf

Senior United States District Judge